

**DISTRICT OF MASSACHUSETTS**


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 SCANSOFT, INC.,

Plaintiff

v.

 VOICE SIGNAL TECHNOLOGIES, INC.,  
 LAURENCE S. GILLICK, ROBERT S.  
 ROTH, JONATHAN P. YAMRON, and  
 MANFRED G. GRABHERR,
Defendants

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C.A. No. 04-10353-PBS

**SCANSOFT'S MOTION FOR ADOPTION OF ITS  
PROPOSED NEUTRAL EXPERT PROCEDURE**

At the *Markman* hearing on June 17, 2005, and again during status conferences on July 18th and August 15th, this Court directed the parties to select a neutral expert and then to adopt a procedure designed to facilitate the expert's informed analysis of the parties' speech recognition engine source code. The parties have now agreed on a neutral expert, Dr. Hermann Ney, and he has agreed to serve. After the parties selected Dr. Ney, ScanSoft sent a proposed procedure to Voice Signal Technologies ("VST") for its consent. ScanSoft took great care in crafting the procedure to comply with this Court's directives regarding the contours of the neutral expert's assignment. ScanSoft's proposed neutral expert procedure is attached to the accompanying memorandum of law as Exhibit C.

VST, however, has, counter-proposed a procedure (Exhibit D) that defies this Court's directives and, indeed, defies procedural and constitutional safeguards. It is clear that VST's procedure is designed (a) to thwart legitimate discovery, (b) to stonewall this case, and (c) to have the neutral expert decide the merits of the case rather than this Court.

Thus, as argued in ScanSoft's accompanying memorandum of law, ScanSoft respectfully requests that the Court endorse ScanSoft's proposed procedure and reject VST's procedures.

### **LOCAL RULE 7.1 CERTIFICATE**

I certify that, on December 8, 2005, counsel for the parties conferred in good faith, by telephone, on the proposed neutral expert procedures but were unable to reach agreement.

### **REQUEST FOR ORAL ARGUMENT**

A hearing may help the Court understand certain complexities regarding the production of computer source code and other aspects of the neutral expert procedures that ScanSoft proposes. Accordingly, ScanSoft respectfully requests a hearing to resolve disputes concerning, and to confirm, the neutral expert procedure.

Dated: December 16, 2005

SCANSOFT, INC.,  
By its attorneys,

/s/ Erik P. Belt

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